

# MONTANA TEACHERS' RETIREMENT SYSTEM

## EMPLOYERS' MANUAL

### INDEX OF UPDATES

TO: School Clerks and Business Officials

FROM: Montana Teachers' Retirement System (TRS)

DATE: June 9, 2003

SUBJECT: TRS Employers' Manual Updates

The following replacement pages for the Montana Teachers' Retirement System Employers' Manual listed in **bold** type may be downloaded and printed from the TRS website at <http://www.trs.doa.state.mt.us>. Please retain the 'Index of Updates' in the introduction section of the manual.

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## RATE HISTORY

### EMPLOYEE CONTRIBUTION RATE HISTORY

FISCAL YEAR	CONTRIBUTION RATE
07/01/36 - 06/30/73	5.000%
07/01/73 - 06/30/75	5.125%
07/01/75 - 06/30/77	6.125%
07/01/77 - 06/30/83	6.187%
07/01/83 - 06/30/99	7.044%
07/01/99 – Present	7.150%

### EMPLOYER CONTRIBUTION RATE HISTORY

FISCAL YEAR	CONTRIBUTION RATE
07/01/37 - 06/30/45	NONE
07/01/45 - 06/30/59	3.750%
07/01/59 - 06/30/69	4.000%
07/01/69 - 06/30/71	4.500%
07/01/71 - 06/30/73	5.125%
07/01/73 - 06/30/75	5.250%
07/01/75 - 06/30/77	6.250%
07/01/77 - 06/30/81	6.312%
07/01/81 - 09/30/81	6.432%
10/01/81 - 06/30/83	6.463%
07/01/83 - 06/30/85	7.320%
07/01/85 - 06/30/89	7.428%
07/01/89 - 12/31/93	7.459%
01/01/94 – Present	7.470%

### MEMBER'S ACCOUNT INTEREST RATE HISTORY

FISCAL YEAR	INTEREST RATE
07/01/37 – 06/30/39	4.00%
07/01/39 – 06/30/43	3.00%
07/01/43 – 06/30/55	2.50%
07/01/55 – 06/30/59	3.00%
07/01/59 – 06/30/63	3.50%
07/01/63 – 06/30/66	4.00%
07/01/66 – 06/30/67	4.25%
07/01/67 – 06/30/68	4.50%
07/01/68 – 06/30/69	4.75%
07/01/69 – 06/30/70	5.00%
07/01/70 – 06/30/71	5.25%
07/01/71 – 06/30/80	5.50%
07/01/80 – 06/30/81	7.00%
07/01/81 – 06/30/87	8.00%
07/01/87 – 06/30/92	7.00%
07/01/92 – 06/30/96	6.00%
07/01/96 – 06/30/02	5.50%
07/01/02 – 06/30/03	4.50%
07/01/03 – Present	4.00%

### TIAA-CREF CONTRIBUTION RATE HISTORY

FISCAL YEAR	CONTRIBUTION RATE
01/01/88 – 06/30/97	2.503%
07/01/97 – 06/30/98	2.810%
07/01/98 – 06/30/99	3.120%
07/01/99 – 06/30/00	3.420%
07/04/00 – 06/30/01	3.730%
07/01/01 – Present	4.040%

## **RESPONSIBILITIES AS PRESCRIBED BY 19-20-208 MCA**

### **Membership**

**(Refer to Section 3)**

Forward a completed 'Record For Membership Form' and 'Beneficiary Designation Form' to the TRS for each new eligible employee. Upon receipt of a Record For Membership Form, the member will receive from the TRS a 'New Employee Packet' informing them of their rights and obligations relating to the retirement system. The 'New Employee Packet' will be mailed to the member at their home mailing address.

### **Employee Contributions Due**

**(Refer to Section 4)**

Withhold the employee contribution amount due from each TRS member at the rate of 7.15%. Contributions are to be remitted to the TRS by the 15th of each month for the preceding month. (Ref: §19-20-602, MCA.)

### **Employer Contributions Due**

**(Refer to Section 4)**

Remit to the TRS the employer's contribution amount due at the rate of 7.47% concurrently with the employee contributions when remitted to the TRS. (Ref: §19-20-605, MCA.)

### **TIAA/CREF**

**(Refer to Section 3)**

All University System employees must be informed of their right to elect to participate in the Teachers' Insurance and Annuity Association/College Retirement Equities Fund (TIAA-CREF) under Title 19, Chapter 21. The TIAA-CREF supplemental employer rate paid to the TRS is 4.04%.

### **Verification of TRS Covered Employment**

**(Refer to Section 3)**

Provide documentation, when requested by the TRS, to verify a member's employment history, change in full-time equivalence (FTE) or hours worked.

### **Earned Compensation**

**(Refer to Section 1)**

As the employer, if you convert non-reportable earned compensation to reportable earned compensation, you must certify to the TRS the amounts reported for each retiree for the five years preceding the member's retirement.

## **MEMBERSHIP ELIGIBILITY**

Membership applies to all persons employed in an instructional position for at least 210 hours during a school year as a Teacher, Teachers' Aide, Librarian, Physical Education Director, Speech Therapist, School Nurse, School Psychologist, Guidance Counselor, Principal, Vice-Principal; Superintendent, and any other member of the teaching or professional staff of any public school, elementary school, high school, community college, state agency, or special education cooperative in the State of Montana.

A person elected to the office of County Superintendent of Schools after July 1, 1995 is not eligible for optional membership in the Public Employees Retirement System but may within 30 days of taking office elect to become an active member of the TRS. (Ref: §19-3-412, MCA) The retirement system membership of an elected County Superintendent of Schools as of June 30, 1995, must remain unchanged for as long as the person continues to serve in the capacity of County Superintendent of Schools. TRS retired members, who are elected to the position of County Superintendent after 1995, may choose not to participate in the TRS as an active member and to continue to receive their full retirement benefit. TRS non-retired members elected to the position of County Superintendent may continue to participate in the TRS as an active contributing member, or maintain their account as an inactive member of the TRS. These individuals will not be eligible for retirement benefits until after they are no longer serving in the capacity of County Superintendent.

Membership also applies to any person employed in the office of, or by, the State Superintendent of Public Instruction in a position which has a significant degree of executive or policy-making authority and whose appointment is based on required training or experience in the field of education.

Membership applies to employees of the University System who are eligible to participate in the TRS who were members prior to July 1, 1993, and College of Technology staff who were members prior to July 1, 1995.

Any person hired into the position of school district clerk or business official is not eligible for TRS membership.

The TRS does not require certification as a condition for membership. However, all positions requiring certification as provided under Title 20 are covered under the TRS. Positions of an instructional nature are eligible for membership with the TRS. The TRS Board determines eligibility for membership in the TRS. (Ref: §19-20-205, MCA.) Please call or write the TRS if you have any questions regarding TRS membership.

## **TIAA-CREF MEMBERS**

The Teachers' Insurance and Annuity Association/College Retirement Equities Fund (TIAA-CREF), is an optional retirement plan available only to employees of the University System who are eligible to participate in the TRS. An eligible person hired on or after July 1, 1993, must become a member of the optional retirement plan unless the person is, on the date hired, an active, inactive, or retired member of the TRS. An individual cannot be in receipt of a TRS monthly benefit and be a member of TIAA-CREF, or their TRS benefit will be cancelled. (Refer to Section 8)

## **MONTANA TRS STATEMENT OF ACCOUNT**

The statement of account for all TRS contributing members in your employment will be sent to your business office for distribution. The statement of account is heat-sealed to protect the privacy of the TRS member.

The statement of account for each TRS vested member, no longer employed in a position covered by the TRS, will be mailed directly to the TRS member's home mailing address.



**MONTANA TEACHERS' RETIREMENT SYSTEM**  
1500 East Sixth Avenue  
PO Box 200139  
Helena MT 59620-0139

**NEW TRS MEMBER QUESTIONNAIRE**

<u>Cooper</u>	<u>Janet</u>	<u>M</u>	<u>123-45-6789</u>
Last Name	First	Middle Initial	Social Security Number

(PLEASE INITIAL ONE)

Are you currently employed in a position covered by the Montana Teachers' Retirement System (TRS) by having the TRS contributions withheld from your current wages?	Yes	No
If YES, please indicate the name of your current employer <u>Helena Public Schools</u>	<u>IC</u>	
Are you receiving a monthly retirement benefit from the TRS?	Yes	No
If you are receiving monthly benefits from the TRS, you are limited to part-time employment and in the amount you may earn and still receive your monthly benefit. Your employer must contact the TRS to confirm the maximum amount you may earn and still received your monthly retirement benefit.		<u>IC</u>

**NOTE:** If you are a substitute teacher or a part-time teacher's aide and not a member of the TRS, you must also complete a 'Substitute Teacher or Part-Time Teacher's Aide Membership Election Form'.

Membership in the TRS is compulsory for all public educators, except for persons teaching less than 210 hours in any given fiscal year. The TRS is a "Defined Benefit Plan" qualified under Internal Revenue Code 401(a). Upon receipt of your completed 'Record For Membership Form' information regarding your retirement system will be sent from the TRS office to your home mailing address.

If you were previously employed in a position covered under the TRS and withdrew your account, you would be eligible to redeposit the service previously withdrawn. Please contact the TRS at (406) 444-3134 to request this or any other information regarding the retirement system.

<u>Janet Cooper</u>	<u>June 6, 2003</u>
Signature Of Employee	Date

**PLEASE RETURN THE COMPLETED FORM TO THE SCHOOL BUSINESS OFFICE**  
**THE COMPLETED FORM IS TO BE RETAINED BY THE EMPLOYER**

TRS Form 107

Revised 6/2003



**MONTANA TEACHERS' RETIREMENT SYSTEM**  
1500 East Sixth Avenue  
PO Box 200139  
Helena MT 59620-0139  
(406) 444-3134

**SUBSTITUTE TEACHER OR PART-TIME TEACHER'S AIDE  
MEMBERSHIP ELECTION FORM**

<u>Janet M. Cooper</u> NAME (PLEASE PRINT)	<u>123-45-6789</u> SOCIAL SECURITY NUMBER
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- A substitute teacher or part-time teacher's aide may elect to be a member of the Montana Teachers' Retirement System (TRS) on the first day of employment. Once you elect to become a member you **must** continue to be a member each successive fiscal year while employed as a substitute teacher or a part-time teacher's aide.
- If you do not elect to be a member of the TRS on the first day of employment as a substitute teacher or part-time teacher's aide, you **must** become a member once you have completed 210 hours in any fiscal year. Once you become a member you are required to continue to be a member in each successive fiscal year while employed as a substitute teacher or a part-time teacher's aide, even if you are employed for only one day.

I elect the following option with respect to the possibility of working more than 210 hours in the capacity of a substitute teacher or a part-time teacher's aide. Initial the appropriate box to indicate your selection.

I prefer to have a deduction for the TRS made beginning on the first day of my service as a substitute teacher or a part-time teacher's aide. I have completed the 'Record for Membership Form'.	<u>JC</u> Initial
I would prefer that no deductions for the TRS be made from my substitute teacher or part-time teacher's aide pay until I have completed 210 hours of service during the fiscal year.	 Initial

Are you a retired member receiving a monthly benefit from the TRS? If so, you are limited to part-time employment and in the amount you may earn and still receive your monthly benefit. Your employer must contract the TRS to confirm the amount you may earn.

<u>Janet M. Cooper</u> SIGNATURE OF EMPLOYEE	<u>June 6, 2003</u> DATE
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PLEASE RETURN THE COMPLETED FORM TO THE SCHOOL BUSINESS OFFICE  
THE COMPLETED FORM IS TO BE RETAINED BY THE EMPLOYER

TRS Form 106

Revised 06/2003

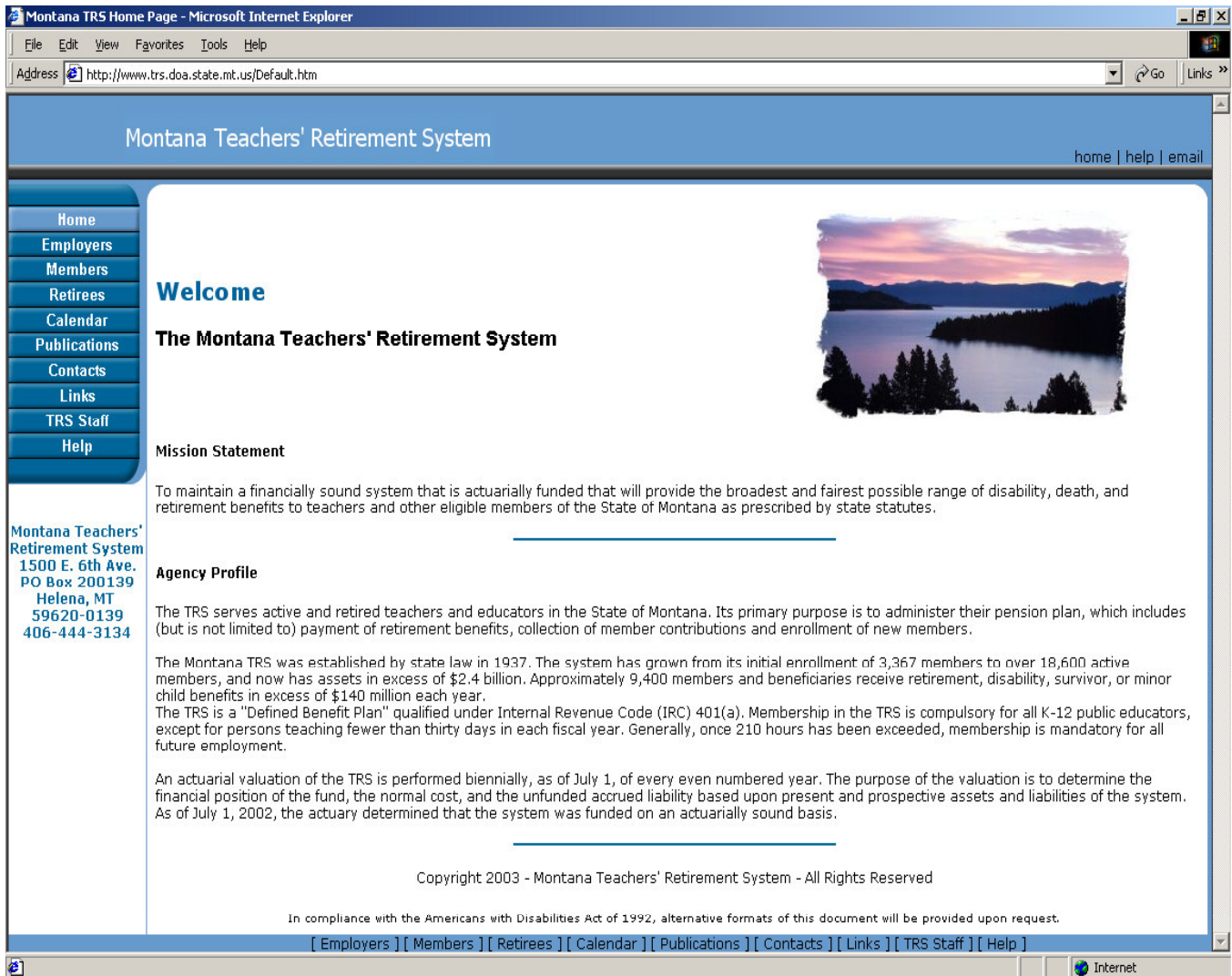


**SECTION 4(c)**  
**Monthly Earnings And Contribution Reporting**  
**Via TRS WEB <http://www.trs.doa.state.mt.us>**

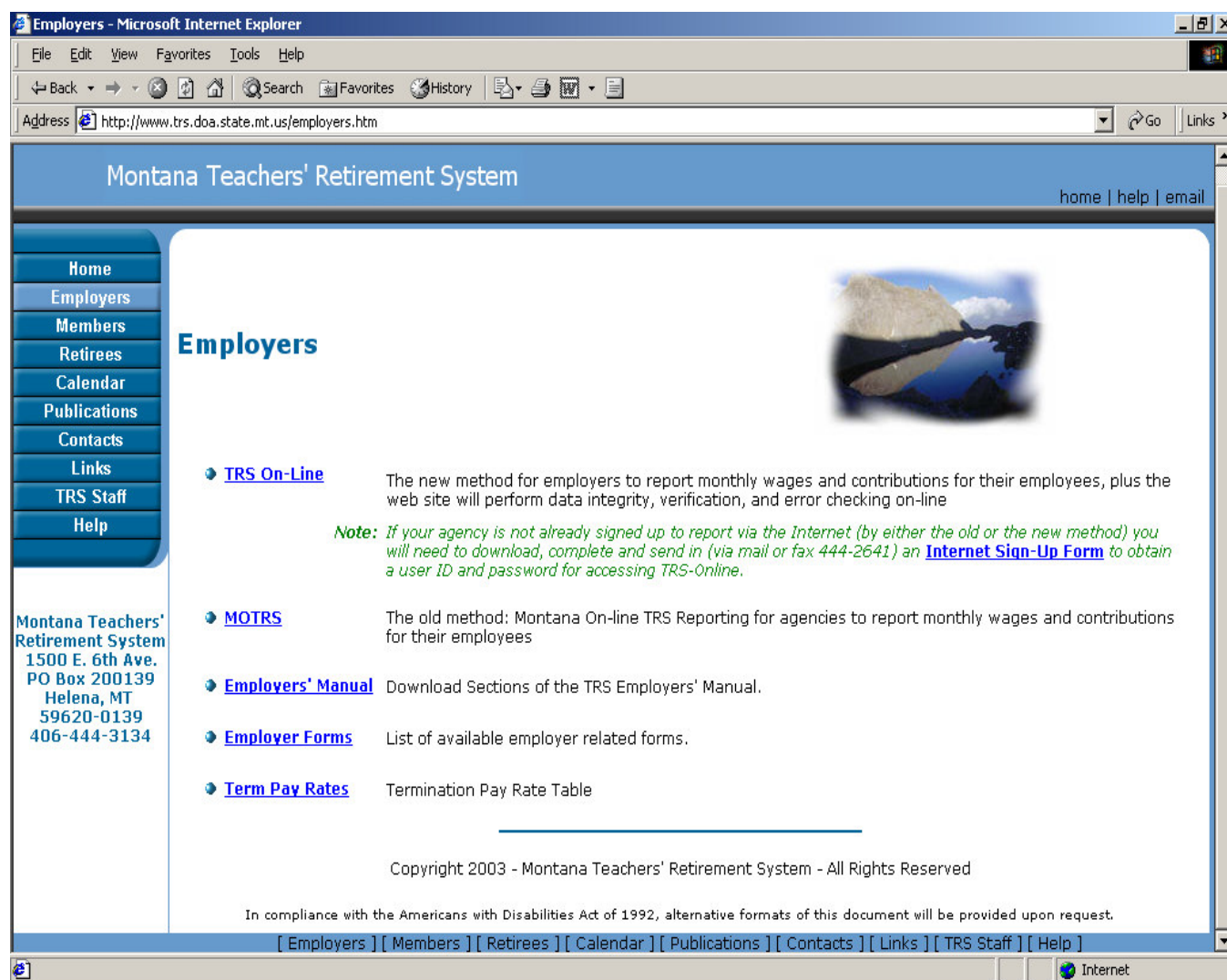
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# TRS WEB SITE HOME PAGE SCREEN



# TRS WEB SITE EMPLOYERS



Clicking on **TRS On-Line** takes you to the TRS On-Line Monthly Earnings and Contributions Reporting System.

Clicking on **Internet Reporting Sign-up Form** opens an Adobe Acrobat .pdf file containing the 'Employer Internet Reporting Sign-up Form' that is used to request a "Username" and "Password" to access the TRS On-Line system.

## REPORTABLE TERMINATION PAY

Termination pay includes, any form of bona fide vacation leave, sick leave, severance pay, amounts provided under a window or early termination incentive plan, or other payments that are contingent upon the employee terminating employment and retiring. Termination pay does not include amounts that are not wages and amounts that are earned prior to termination under a non-qualified deferred compensation plan. If the employer's termination pay package includes options, or benefits other than cash payments, please contact the TRS prior to withholding or remitting contributions to the TRS.

Under Montana statute "Retirement" is defined as the status of a member who has terminated employment and applying for retirement benefits. If a TRS member is terminating employment for the sake of leaving the field of education and not applying for monthly retirement benefits or will be accepting a position with another TRS employer within the State of Montana, the lump sum payout is not considered termination pay and is not reportable to the TRS.

If you have employees that receive a payout at the end of each fiscal year, for accumulated sick leave or vacation pay, these earnings are **not** termination pay and are **not** reportable to the TRS until the year of termination and retirement.

## TERMINATION PAY OPTIONS

If a TRS member is terminating and retiring and their earned compensation includes any termination pay, they must select one of the three following options:

- Option 1**      Use the total termination pay amount in the calculation of the AFC. The TRS member and the employer shall pay contributions to the TRS as are determined by the TRS Board to adequately compensate the system for the additional retirement benefit. The contributions due the TRS must be made at the time the termination pay is received.
- Option 2**      The amount of compensation used in the calculation of AFC must be divided by the total number of years of creditable service to determine a yearly amount. The yearly amount of termination pay is then added to each of the three consecutive years' salary used in the calculation of the AFC. The TRS member and the employer shall pay contributions on the termination pay according to the rates provided for in §19-20-602(1) and §19-20-605(1), MCA.
- Option 3**      Exclude the termination pay from the AFC. Contributions are not required from the TRS member or their employer, and any contributions made under §19-20-602 and §19-20-605, MCA must be refunded.



## MONTANA TEACHERS' RETIREMENT SYSTEM

1500 East Sixth Avenue  
PO Box 200139  
Helena MT 59620-0139  
(406) 444-3134

### TERMINATION PAY - IRREVOCABLE ELECTION

A Montana Teachers' Retirement System (TRS) member, pursuant to 19-20-716 MCA, is permitted to pay additional employee contributions to the TRS in order to include termination pay in the calculation of their monthly benefit. Pursuant to the provisions of 19-20-716, the employee contribution due the TRS may be deducted from the termination pay and remitted to the TRS on a tax-deferred basis. I understand that tax-deferral of the employee contributions due to the TRS on termination pay requires execution of this irrevocable payroll reduction authorization. If this form is properly executed, the employer is required to pick-up and remit the employee contribution due the TRS from my termination pay. With respect to this reduction, I understand the following:

- This is an irrevocable reduction authorization. The statute governing this option, 19-20-716 MCA, requires that I use **"the total"** termination pay amount available at the time of termination and retirement in the calculation of average final compensation.
- The binding irrevocable election form is not effective until signed by myself, as the TRS member, and an authorized representative of my employer.
- The pick-up is only effective if the irrevocable election form is executed at least **90** days prior to my final day of employment.
- Contributions due TRS must be deducted from the gross amount of my termination pay, paid at the time of my termination and retirement. Amounts paid prior to termination or months after termination cannot be reported to TRS.
- The contributions picked up by my employer may not exceed the otherwise taxable portion of my termination pay.
- Termination pay does not include payments that are considered deferred compensation. The most common type of deferred compensation is the option to take cash or have the amount payable applied toward future insurance premiums. Even if the member elects to take the cash, it is not reportable as termination pay to the TRS. The employer may be required to offer assurances in this regard.
- After the execution of this Termination Pay – Irrevocable Election Form, I do not have the option of receiving the picked up amounts (employee contributions) directly instead of having them paid by my Employer to TRS.
- Employee contributions deducted from termination pay must be paid from the same source as compensation is paid.
- I understand that employee contributions are being picked up by my employer and must be remitted directly to the TRS in lieu of the employee contributions being paid by me.
- I understand that if employee contributions due exceed the available funds after social security taxes have been deducted from the gross amount of the termination pay, that I will be required to make personal payment of any balance due.
- Any portion of my termination pay that is required to be contributed by my employer to a Voluntary Employee Benefit Association (VEBA) will reduce the maximum amount of termination pay that can be reported to TRS.
- If I die prior to termination of employment, this binding, irrevocable election shall be carried out in accordance with the executed Termination Pay - Irrevocable Election Form. If the termination pay is not payable upon my death, the election is void.

## TERMINATION PAY - IRREVOCABLE ELECTION FORM

Employee Name (First, MI, Last - Print or Type)  <b>Jane M. Smith</b>	Employee Social Security Number  <b>123-45-6789</b>
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**I hereby elect to use termination pay in the calculation of average final compensation in compliance with option:**

		<b>Initial one option</b>
<b>OPTION 1</b>	Use the total termination pay in the calculation of the average final compensation. My employer and I shall pay such contributions to the retirement system as are determined by the Retirement Board to adequately compensate the System for the additional retirement benefit.	<b>JMS</b>
<b>OPTION 2</b>	The termination pay is divided by the total number of years of creditable service to determine a yearly amount. The yearly amount of termination pay is then added to each of the three consecutive year's salary used in the calculation of the "Average Final Compensation." My employer and I must pay the normal contribution rates on the termination pay.	

**I hereby direct my employer, at the time of my termination and retirement, to deduct from my termination pay paid at the time of termination and retirement the contributions due the Teachers' Retirement System to effectuate my election with regard to the use of termination pay in the calculation of my benefit from the TRS.**

### EMPLOYEE SIGNATURE

Employee's Signature <i>Jane M. Smith</i>	Date <i>June 6, 2003</i>
Employee's Mailing Address, City, State and Zip <i>123 Anywhere Street Helena, MT 59601</i>	

### EMPLOYER SIGNATURE

Signature of Authorized Representative or Employer <i>Authorized Representative</i>	Date <i>June 6, 2003</i>
Name of Employer's Authorized Representative (Print or Type) <b>Authorized Representative</b>	Title of Authorized Representative <b>School Clerk</b>
Name of School District or Unit of the University System <b>Helena Public Schools</b>	TRS Employer Number <b>123456</b>
Employer's Mailing Address <b>123 Rodney Helena, MT 59601</b>	Employer's Telephone Number <b>(406) 442-2222</b>

**Distribution:** Mail Original "Termination Pay – Irrevocable Election Form" to the TRS  
 Photocopy Retained by the Employer  
 Photocopy Provided to the Employee

Revised 06/2003

## **SECTION 8 RETIREE/BENEFICIARY INFORMATION**

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## REPORTABLE EARNED COMPENSATION FOR WORKING RETIREES

Reportable earned compensation represents a TRS retiree's base part-time contract and any additional instructional duties, to include, summer teaching contracts/summer school, coaching, and drivers' education. Earnings that are not reportable to the TRS include bus driving, custodian, ticket taking, hall monitoring, or food services/cafeteria. These earnings are also not reportable for active members.

Examples of other employer benefits **not** reportable to the TRS include, but are not limited to the following:

1. Employer premium payments on behalf of TRS retiree's for health or dependent care expense accounts or any employer contribution for health, medical, pharmaceutical, disability, life, vision, dental, or any other insurance.
2. Any employer payment or reimbursement for professional membership dues, maintenance, housing, day care, automobile, travel, lodging, entertaining expenses, or any similar payment for any form of maintenance, allowance, or expenses.
3. The imputed value of health, life, or disability insurance.
4. Any non-cash benefit provided by an employer to or on behalf of a TRS retiree.
5. Any lump-sum payment of unused, accumulated sick or annual leave, excess leave balance payments, any early retirement incentive severance payment, or one-time incentives or bonuses.

## INDEPENDENT CONTRACTORS

Any person employed as an independent contractor shall be ineligible for membership in the TRS. The TRS Board shall accept a certification from the Montana Department of Labor and Industry (DLI) as prima facie evidence of independent contractor status. The burden of proof before the TRS Board is on the TRS employer. If the TRS retired member's status as an independent contractor is in question, they must become a member of the TRS. (Ref: §19-20-302, MCA.)

Hiring employees as independent contractors must be evaluated under the IRS's test of independent contractor status. The critical factors are whether the governmental entity has the right to direct and control the worker as to the manner and means of the worker's job performance. In most cases schools must, of necessity, have the requisite right to direct and control its teachers and administrators as to all significant performance issues: hours, goals, curriculum, and termination; therefore these individuals generally would not meet the test of independent contractor status. In addition, there is no financial "risk" of an enterprise shifted to the worker, which is another requirement for independent contractor status. Employers should be aware that "labeling" a person an independent contractor is not determinative of that status — control is.

Montana law provides for a civil penalty of \$1,000 for each false statement or misrepresentation made concerning a person's status as an independent contractor. Montana law also prohibits employees from waiving their rights under the workers' compensation and unemployment insurance acts. An employer who avoids these responsibilities may be committing employer misconduct, a felony, punishable by up to 10 years in prison and/or a \$50,000 fine. For more information, please contact the DLI Independent Contractor Central Unit at (406) 444-1446.

## EXEMPTION FROM LEGAL PROCESS

The retirement allowance or any benefits accrued or accruing to any person under the provisions of the TRS and the accumulated contributions, cash and securities in the various funds of the retirement system are not subject to execution, garnishment, attachment by trustee process or otherwise, in law or equity, or any other process; and may not be assigned, except under the limited provisions of a Family Law Order (FLO). (Ref: §19-20-706, MCA.)